

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MITSUBISHI CHEMICAL CORPORATION,  
MITSUBISHI TANABE PHARMA  
CORPORATION, ENCYSIVE  
PHARMACEUTICALS INC.,  
SMITHKLINE BEECHAM PLC AND  
SMITHKLINEBEECHAM CORP. D/B/A  
GLAXOSMITHKLINE,

Plaintiffs,

v.

BARR LABORATORIES, INC.,

Defendant.

Civil Action No. 1:07-CV-11614-JGK

Electronically Filed

**STIPULATION AND PROPOSED  
ORDER**

It is hereby stipulated and agreed by counsel for Plaintiffs Mitsubishi Chemical Corporation, Mitsubishi Tanabe Pharma Corporation and Encysive Pharmaceuticals Inc. (collectively "Plaintiffs"), counsel for Defendant Barr Laboratories, Inc. ("Barr"), and counsel for PLIVA-Hrvatska d.o.o. ("PLIVA") that:

WHEREAS, by letter dated November 16, 2007 (with certain attachments) counsel for Barr advised that the Food and Drug Administration ("FDA") had received an ANDA 79-238 from Barr;

WHEREAS, in reliance thereon Plaintiffs commenced this action within a 45-day period;

WHEREAS, by letter dated January 15, 2008 (with certain attachments) counsel for Barr advised that the name of the applicant identified in ANDA 79-238 was PLIVA and that Barr is identified in the ANDA as the authorized agent of PLIVA;

WHEREAS, Plaintiffs and Barr and PLIVA disagree as to the effect, if any, of the November 16, 2007 and January 15, 2008 letters and information contained therein on the timing of the 45-day period within which Plaintiffs could commence an action and the commencing of a 30-month stay of FDA approval of ANDA 79-238; and

WHEREAS, Barr has filed an answer with a counterclaim.

NOW THEREFORE, in order to avoid needless disputes and to efficiently resolve certain issues arising from the matters described above, Plaintiffs, Barr and PLIVA, through their undersigned counsel, hereby stipulate and agree as follows:

(1) Plaintiffs may file an amended complaint on or before February 21, 2008.

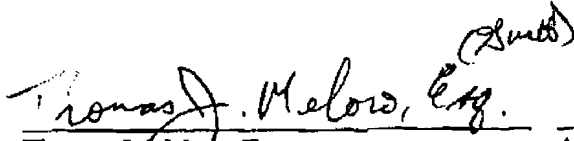
(2) Barr and PLIVA (assuming it is named as a defendant in the amended complaint) shall answer or move with respect to the amended complaint on or before March 12, 2008.

(3) Willkie Farr & Gallagher LLP is authorized by Barr and PLIVA to accept, and hereby agrees to accept, service of an amended complaint on their behalf.

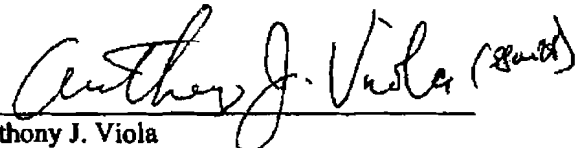
(4) The 30-month stay for ANDA 79-238 shall be deemed to run from receipt of the January 15 notice letter by the patent owner on January 17, 2008, unless such period is otherwise shortened or lengthened by the Court pursuant to 21 U.S.C. § 355(j)(5)(B)(iii) based upon subsequent events.

Dated: New York, N.Y.  
February \_\_, 2008

Respectfully submitted,

  
Thomas J. Meloro, Esq.  
Diane C. Ragosa, Esq.  
Heather M. Schneider, Esq.

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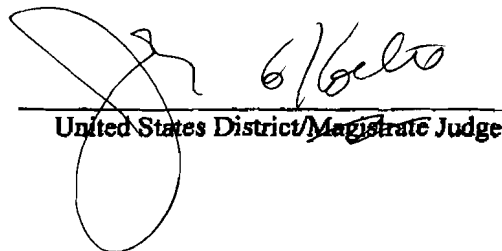
  
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and on behalf of

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**SO ORDERED:**

Dated: February 25, 2008  
New York, New York

  
United States District Judge